

104TH CONGRESS  
2D SESSION

# S. 1986

To provide for the completion of the Umatilla Basin Project, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 24, 1996

Mr. HATFIELD introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To provide for the completion of the Umatilla Basin Project, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       SECTION 1. This Act may be referred to as the  
4       “Umatilla Basin Project Completion Act”.

5       SEC. 2. Title II of Public Law 100–557 is amended  
6       by adding at the end thereof:

7               “AUTHORIZATION OF PROJECT COMPLETION

8               “SEC. 214. For purposes of completing the Columbia  
9       River water exchanges and other mitigation efforts nec-  
10      essary to restore the Umatilla River basin fishery, and to

1 provide for the expansion of Umatilla basin project district  
2 boundaries, the Secretary of the Interior (hereinafter re-  
3 ferred to as the Secretary), acting pursuant to the Federal  
4 reclamation laws (Act of June 17, 1902, and Acts amend-  
5 atory thereof and supplementary thereto), is authorized to  
6 complete construction and to operate and maintain the in-  
7 tegrated Umatilla River basin project, including pump ex-  
8 change projects known as phases I, II, and III.

9 “UMATILLA RIVER PHASE III EXCHANGE

10 “SEC. 215. (a)(1) The Secretary is hereby authorized  
11 to construct a third and final phase of the Umatilla River  
12 basin project to provide additional flows in the Umatilla  
13 River for anadromous fish through a water exchange with  
14 Westland Irrigation District.

15 “(2) Prior to construction, the Secretary shall com-  
16 plete a feasibility study to identify alternatives within the  
17 authorized ceiling to provide Westland Irrigation District  
18 exchange flows of approximately 220 cubic feet per second,  
19 or greater.

20 “(3) The feasibility study for the phase III exchange  
21 facilities shall include an analysis of inclusion of other  
22 irrigators in the exchange, appropriate backup systems,  
23 water conservation opportunities, and such other analyses  
24 as the Secretary may deem appropriate to improve the ex-  
25 change project for fishery restoration purposes.

1       “(4) Prior to completion of phase III facilities, the  
2 Secretary shall negotiate and execute an exchange agree-  
3 ment with the Westland Irrigation District and any other  
4 participating irrigators to allow the use of Columbia River  
5 water in exchange for an equal amount of Umatilla River  
6 or McKay Reservoir water: *Provided*, That the irrigation  
7 districts shall continue to be eligible to receive the same  
8 volume of water as they received under their respective  
9 contracts with the Bureau of Reclamation dated July 6,  
10 1954 for Hermiston Irrigation District, November 18,  
11 1949 for Stanfield Irrigation District, July 6, 1954 for  
12 West Extension Irrigation District, and November 18,  
13 1949 for Westland Irrigation District.

14       “(5) Phase III facilities may pump Columbia River  
15 water for exchange purposes only, and not for conjunctive  
16 use.

17       “(b) OPERATION OF MCKAY RESERVOIR.— The Sec-  
18 retary shall operate McKay Reservoir in accordance with  
19 Federal and State law and water rights filed pursuant to  
20 State law. The Secretary is authorized to continue to des-  
21 ignate and deliver McKay Reservoir water for Umatilla  
22 River fishery purposes. This title shall not alter any par-  
23 ty’s rights or obligations under existing contracts for  
24 McKay Reservoir water.

1       “(c) OPERATION AND MAINTENANCE COSTS.—All ex-  
 2 change system operation and maintenance costs and any  
 3 increased operation and maintenance costs to the project  
 4 caused by the phase III exchange shall be the responsibil-  
 5 ity of the Federal Government and shall be nonreimburs-  
 6 able.

7       “(d) POWER FOR PROJECT PUMPING.—The Adminis-  
 8 trator of the Bonneville Power Administration, consistent  
 9 with provisions of the Columbia River Basin Fish and  
 10 Wildlife Program established pursuant to the Pacific  
 11 Northwest Electric Power Planning and Conservation Act  
 12 (94 Stat. 2697), shall provide for project power needed  
 13 to effect the phase III water exchange for purposes of  
 14 mitigating anadromous fishery resources. The cost of  
 15 power shall be credited to fishery restoration goals of the  
 16 Columbia River Basin Fish and Wildlife Program.

17       “UMATILLA BASIN PROJECT BOUNDARY ADJUSTMENT

18       “SEC. 216. (a) Upon enactment of the Umatilla  
 19 Basin Project Completion Act, the boundaries of the three  
 20 irrigation districts with functioning Columbia River water  
 21 exchange facilities are adjusted by operation of law as fol-  
 22 lows:

23               “(1) Hermiston Irrigation District’s boundaries  
 24       are adjusted to include the 1,091 acres identified in  
 25       its 1993 request to the Bureau of Reclamation.

1           “(2) Stanfield Irrigation District’s boundaries  
2           are adjusted to include the 230.99 acres receiving  
3           water under 1995 and 1996 temporary contracts  
4           with the Bureau of Reclamation.

5           “(3) West Extension Irrigation District’s  
6           boundaries are adjusted to include the 2,436.8 acres  
7           identified in its 1993 request to the Bureau of Rec-  
8           lamation and are classified as irrigable in the Bu-  
9           reau of Reclamation’s Land Classification Report.

10          “(b)(1) When the Umatilla basin project’s phase III  
11          exchange is completed and fully functional, the Westland  
12          Irrigation District’s boundaries shall be adjusted to in-  
13          clude the 7,023 acres receiving water under 1995 and  
14          1996 temporary contracts with the Bureau of Reclama-  
15          tion: *Provided*, That any analysis required by the National  
16          Environmental Policy Act of 1969 on the boundary expan-  
17          sion request shall be accomplished in conjunction with  
18          similar analysis on the phase III exchange facilities. The  
19          Westland Irrigation District shall pay analysis costs asso-  
20          ciated with boundary adjustment, not to exceed \$300,000,  
21          and any additional costs shall be nonreimbursable.

22          “(2) The Westland Irrigation District’s temporary  
23          contract with the Bureau of Reclamation is hereby ex-  
24          tended for an additional ten-year period. All other terms  
25          of the temporary contract, including the payment, water

1 delivery, and mitigation provisions, shall remain the same.  
 2 A riparian project, as described in the 1996 temporary  
 3 contract, will be designed and completed by the Westland  
 4 Irrigation District. If phase III is not fully functional  
 5 when this temporary contract, as extended, expires, the  
 6 Secretary is authorized to enter into additional extensions  
 7 on such terms and conditions as may be mutually agree-  
 8 able.

9 “(c) Notwithstanding any other provision of this title,  
 10 no parcel may receive project water unless it has a valid  
 11 existing State water right and is classified as irrigable in  
 12 the Bureau of Reclamation’s Land Classification Report.

13 “(d) Upon approval of each irrigation district’s  
 14 boundary adjustment request and adjustment of the  
 15 boundary, a legal description of the new district bound-  
 16 aries, including land classification and project boundary  
 17 maps, shall be provided as an attachment to all four irri-  
 18 gation districts’ existing contracts.

19 “(e) No alteration in the ability to pay determination  
 20 for the Umatilla River basin project districts may be made  
 21 as a result of the project boundary expansions authorized  
 22 by this title.

## 23 “TREATY OBLIGATIONS

24 “SEC. 217. The Federal Government and the Confed-  
 25 erated Tribes of the Umatilla Indian Reservation jointly  
 26 recognize that completion of phase III and perpetual oper-

1 ation of the integrated project, including phases I, II, and  
2 III, meets all obligations of the Federal Government to  
3 provide the Confederated Tribes of the Umatilla Indian  
4 Reservation with water for fishery needs in the Umatilla  
5 River below the mouth of McKay Creek, as recognized by  
6 their 1855 treaty with the United States.

7 “WATER PROTECTION AND MANAGEMENT

8 “SEC. 218. (a) The Secretary shall continue working  
9 in cooperation with the State of Oregon, the Confederated  
10 Tribes of the Umatilla Indian Reservation, the irrigation  
11 districts, and the affected public toward developing a com-  
12 prehensive water management plan to assist in restoring  
13 the Umatilla River basin’s anadromous fishery. The Sec-  
14 retary shall develop an integrated groundwater/surface  
15 water model of the upper Umatilla River basin for use in  
16 developing the comprehensive water management plan.

17 “(b) Project facilities and features authorized by this  
18 title shall be integrated and coordinated, from an oper-  
19 ational standpoint, into existing features of the Umatilla  
20 basin project.

21 “(c) The Secretary shall enter into appropriate agree-  
22 ments with the State of Oregon, the relevant irrigation  
23 districts, and the Confederated Tribes of the Umatilla In-  
24 dian Reservation, as appropriate, to provide funding for  
25 monitoring and administration, including regulation, of

1 project-related water supplies for the purposes herein  
2 identified.

3 “AUTHORIZATION FOR APPROPRIATION

4 “SEC. 219. (a) There is authorized to be appropriated  
5 to the Secretary, plus or minus such amounts as may be  
6 justified by reason of ordinary fluctuations of applicable  
7 cost indexes, the following sums, without fiscal year limita-  
8 tion:

9 “(1) Not to exceed \$71,000,000 for feasibility  
10 studies, environmental studies, and construction of  
11 the phase III exchange: *Provided*, That all costs of  
12 phase III planning and construction, including oper-  
13 ation and maintenance costs allocated to the mitiga-  
14 tion of anadromous fish species and the study au-  
15 thorized in section 215 of this Act, shall be non-  
16 reimbursable: *Provided, further*, That not less than  
17 80 per centum of such funds shall be used for actual  
18 construction.

19 “(2) Not to exceed \$500,000 for the develop-  
20 ment of a comprehensive water management plan  
21 and integrated groundwater/surface water model, as  
22 provided for in section 218(a) of this title.

23 “(3) Not to exceed \$400,000 annually for en-  
24 forcement and protection of phases I, II, and III of  
25 exchange water for instream uses, as provided for in  
26 section 218(c) of this title.”.



## 1 WATER RIGHTS

2 SEC. 3. Nothing in this Act shall—

3 (a) impair the validity of or preempt any provi-  
4 sion of State law with respect to water or water  
5 rights, or of any interstate compact governing water  
6 or water rights;

7 (b) create a right to the diversion or use of  
8 water other than as established pursuant to the sub-  
9 stantive and procedural requirements of State law  
10 and as recognized under State law;

11 (c) impair or affect any valid water right; or

12 (d) establish or create any water rights for any  
13 party, nor may any provision be construed to create  
14 directly or indirectly an express or implied Federal  
15 reserved water right for any purpose.

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